HIGH COURT OF CHHATTISGARH AT BILASPUR

42

W.P. No.4243/1998

CORAM: Hon'ble Shri S.R.Nayak, Chief Justice &
Hon'ble Shri Dilip Raosaheb Deshmukh, J.

PETITIONER : Gorakh Nath Verma, son of Shri D.R.Verma, aged about 32 years, R/o Gatapar, Block Palari, Distt. Raipur (MP)

Versus

RESPONDENTS : 1. State of Madhya Pradesh Through Secretary, Panchayat and Social Welfare Department Bhopal (MP)

: 2. Chief Executive Officer, Zila Panchayat Raipur (MP)

Smt. Renu Kochar, Counsel for the petitioner.
Shri Utkarsh Verma, Dy. Government Advocate for the State.

ORAL ORDER
(Passed on 26.4.2006)

The following oral order of the Court was passed by **S. R. Nayak, C. J.**

The petitioner applied for the post of Shiksha Karmi Class-II (Biology). He was not selected for the post. Hence, this writ petition is filed questioning his non-selection to the post of Shiksha Karmi. The petitioner has also challenged the questioning the validity of sub-clause (b) clause (1) of sub-rule (9) of Rule 5 of M.P.Panchayat Shiksha Karmis (Bharti Tatha Seva Ki Sharte) Niyam, 1997 (for short 'Niyam 1997'). At this stage itself, it needs to be noticed that the provision assailed is a repealed Rule and the impugned Rule was substituted by amendment made vide notification No.F-20-95-XXII-P-2 dated 13th April, 1998 by the State Government in exercise of the powers conferred on it by sub-section (1) of Section 95 read with Section (2)

of Section 53 and sub-section (1) of Section 70 of the Madhya Pradesh Panchayat Raj Adhiniyam, 1993. Therefore, the challenge to repealed Rule does not survive for decision-making. The amendment was brought about even on the date when the writ petition was presented in the High Court of Madhya Pradesh.

2. The only contention urged in the writ petition and reiterated by the learned counsel for the petitioner is that the petitioner is having B.Sc. M.A. and B.Ed. Degree and he belongs to OBC category. The petitioner is given only 11 marks in the interview and the marks given in the interview is totally unreasonable, arbitrary and very much on lower side, and if he were to be given marks in interview on par with the marks awarded to the other candidates, he would have raised upto a rank which would have resulted in his selection to the post of Shiksha Karmi. The petitioner himself in paragraph 5.4 has disclosed that in the OBC category, the last candidate selected for the post of Shiksha Karmi had secured aggregate of 54.83 marks whereas the aggregate marks secured by the petitioner is only 44.48 marks. The Court cannot go into assessment of the petitioner made by the selection committee in the interview, particularly, in the absence of plea of any *mala fide.* It is not the case of the petitioner that persons constituting the selection committee for some collateral or extraneous considerations or vindictively awarded less marks than what the petitioner deserved in the interview. Therefore, we do not find any merit in the above contention advanced on behalf of the petitioner. No other points are urged before this Court to assail non-selection of the petitioner to the post of Shiksha Karmi.

3. The writ petition fails and it is accordingly dismissed. No costs.

Sd/-
Chief Justice

Sd/-
Dilip Raosaheb Deshmukh
Judge

Anjani
Tumane